

CALIFORNIA COASTAL COMMISSION

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Commission Action:

STAFF REPORT: APPEAL
SUBSTANTIAL ISSUE for A-5-PPL-00-028

LOCAL GOVERNMENT: City of Los Angeles

LOCAL DECISION: Approval with Conditions

APPEAL NUMBER: A-5-PPL-00-028

APPLICANT: J. Paul Getty Trust/Stephen Rountree

AGENT: Latham & Watkins, Attorneys at Law

PROJECT LOCATION: 17985 Pacific Coast Highway, Pacific Palisades, City of Los Angeles

PROJECT DESCRIPTION: Renovation and expansion of the Getty Villa and Museum facility (an addition of approximately 76,000 square feet to an existing 134,000 square-foot facility, for a new total of 210,000 square feet). Development includes construction of a 600-seat Outdoor Classical Theater and two partially subterranean parking structures for a net increase of 169 parking spaces. Conditions of approval limit the proposed Outdoor Classical Theater to 450 seats and require a total of 460 on-site parking spaces.

SUMMARY OF STAFF RECOMMENDATION

The staff recommends that the Commission, after public hearing, determine that a substantial issue exists with respect to the grounds on which the appeal has been filed because the project approved by the City raises substantial issues of conformity with regard to the Chapter 3 policies involving impacts to traffic and beach access, impacts to habitat

areas, landforms alterations, risks to life and property and stability and structural integrity in an area of high geologic hazards.

APPELLANTS:

Palisades Preservation Association, Inc.; Pacific Palisades Residents Association; Barbara Kohn; and Executive Director of the California Coastal Commission, Peter Douglas

SUBSTANTIVE FILE DOCUMENTS:

1. Environmental Impact Report No. 96-0077
2. City of Los Angeles Local Coastal Development Permit No. 83-017

I. APPEAL PROCEDURES

Prior to certification of a local coastal program Section 30602 of the Coastal Act allows any action by local government on a Coastal Development Permit application pursuant to Section 30600(b) to be appealed to the Commission. Sections 13302-13319 of the California Code of Regulations provide procedures for issuance and appeals of locally issued Coastal Development Permits prior to certification of a LCP.

After a final local action on a Coastal Development Permit issued pursuant to section 30600(b) of the Coastal Act prior to certification of the LCP, the Coastal Commission must be noticed within five days of the decision. After receipt of a notice, which contains all the required information, a twenty working day appeal period begins. During the appeal period, any person, including the applicant, the Executive Director, or any two members of the Commission, may appeal the local decision to the Coastal Commission (Section 30602). Section 30621 of the Coastal Act states that a hearing on the appeal must be scheduled for hearing within 49 days of the receipt of a valid appeal. The appeal and local action are analyzed to determine if a substantial issue exists as to the conformity of the project to Chapter 3 of the Coastal Act (Section 30625(b)(1)). If the Commission finds substantial issue, the Commission holds a new public hearing to act on the Coastal Development Permit as a de novo matter.

In this case, the City's Notice of Final Local Action was received on December 28, 1999. The twenty working day appeal period was determined on that day, ending on January 26, 2000. The South Coast District office received four appeals of the Local Coastal Development Permit during the appeal period.

The Commission may decide that the appellants' contentions raise no substantial issue of conformity with the Coastal Act, in which case the action of the local government stands. Alternatively, if the Commission finds that the proposed project may be inconsistent with the Chapter 3 policies of the Coastal Act of 1976, it will find that a substantial issue exists with the action of the local government. If the Commission finds substantial issue, then the hearing will be continued open and scheduled to be heard as a de novo permit request at the same or subsequent hearing. Section 13321 specifies that de novo actions will be heard according to the procedures outlined in Section 13114 of the Code of Regulations.

In this case because the development is located within the City's single coastal development permit area, unless the Commission finds substantial issue, the local governments action is final.

II. APPELLANTS' CONTENTIONS

The City of Los Angeles Local Coastal Development Permit #98-015 approves a permit, with conditions, for, as described by the City, the development of:

Renovation and expansion of the Getty Villa and Museum facility (an addition of approximately 76,000 square feet to an existing 134,000 square-foot facility, for a new total of 210,000 square feet). Development includes construction of a 600-seat Outdoor Classical Theater and two partially subterranean parking structures for a net increase of 169 parking spaces. Conditions of approval limit the proposed Outdoor Classical Theater to 450 seats and require a total of 460 on-site parking spaces with parking spaces for up to 8 buses; and include grading and landslide remediation, widening of Pacific Coast Highway to include a turn lane and other transportation improvements along Pacific Coast Highway, Sunset Boulevard and Los Liones Drive.

The City's approval of the proposed development was appealed on January 24, 25, and 29, 2000, by four appellants. The project was appealed by Palisades Preservation Association, Inc.; Pacific Palisades Residents Association; Barbara Kohn, and by the Executive Director of the California Coastal Commission.

The appeal by Palisades Preservation Association, Inc. contends that:

1. Vehicle access will use Los Liones Drive in Los Liones State Park for egress of buses and for ingress and egress of employees, visiting scholars, delivery vehicles, and business visitors. The use of this road will be inconsistent with Sections 30604(c) and 30223 of the Coastal Act.

The appeal by Pacific Palisades Residents Association contends that:

1. The project is contrary to Section 30211 of the Coastal Act.
2. Approval of a project of this magnitude will prejudice the ability of the City of Los Angeles to prepare a local Coastal Program in conformity with Chapter 3 of the Coastal Act.
3. In approving the project, the City of Los Angeles has failed to be guided by prior relevant decisions of the Coastal Commission.
4. The project conflicts with Section 30240(a), which requires that environmentally sensitive habitat be protected from significant disruption.
5. The project violates Section 30253 by increasing risk to life and property in an area of high geologic, flood and fire hazard.
6. The project conflicts with the Interpretive Guidelines for the area as adopted by the Coastal Commission. The project alters natural landforms along bluffs, which should be prohibited under the Guidelines.

The appeal by Ms. Kohn contends that:

1. The 1983 Coastal Commission [approval] limited parking at this site to 291 spaces with visitor capacity limited to no more than 216.
2. The project will result in increased traffic on Pacific Coast Highway.
3. The project is inconsistent with Sections 30211, 30253, 30250 and 30240(a) of the Coastal Act.
4. Approval will prejudice the ability of the City of Los Angeles to prepare an LCP in conformity with the Coastal Act.

The appeal by the Executive Director contends that:

1. The proposed project site is located adjacent to Pacific Coast Highway, which provides the only access to the site. The project will add additional traffic to Pacific Coast Highway and to nearby Sunset Boulevard. Pacific Coast Highway is the major thoroughfare providing north-south access to the various beaches to the south and north of the project site. Sunset Boulevard provides east-west access to the area beaches for people living in the inland areas and to two lower entrances to Topanga State Park. Topanga State Park, which is a major recreational area, is located off of Sunset Boulevard and is within close proximity to

the project site. Additional traffic generated by the proposed development could have an adverse impact to beach access along Pacific Coast Highway and to nearby Topanga State Park.

2. One of the conditions of the City's permit requires an off-site shuttle program to transport visitors to evening performances at the proposed Outdoor Classical Theater. The off-site parking locations have not been identified in the permit. Therefore, there is a potential that use of off-site parking areas may adversely impact beach and recreational parking use if the potential sites are used by beach or recreational users.
3. In the City's approval, the City indicates that with an imposed reservation system and shuttle program adequate parking will be provided to meet the current and expanded use. The City's approval indicates that a total of 560 parking spaces will be provided but does not indicate the current parking supply, nor does it include the existing parking demand and the parking demand generated by the expansion. Furthermore, according to the City's approval, the reservation system is part of a 1974 agreement with the Sunset Mesa Property Owners Association. The agreement was not included as part of the City's approval. Without this parking information it can not be determined what potential parking impacts the proposed project would have on beach access and recreational use.

III. STAFF RECOMMENDATION, MOTION AND RESOLUTION

The staff recommends that the Commission determine that **a substantial issue exists** with respect to the City's approval of the project with the provisions of Chapter 3 of the Coastal Act (commencing with Section 30200), pursuant to Public Resources Code Section 30625(b)(1).

MOTION: Staff recommends a **NO** vote on the following motion:

I move that the Commission determine that Appeal No. A-5-PPL-00-028 raises **NO** substantial issue with respect to the grounds on which the appeal has been filed.

A majority of the Commissioners present is required to pass the motion.

RESOLUTION:

The California Coastal Commission hereby finds that Appeal number A-5-PPL-00-028 presents a Substantial Issue with respect to the grounds on which the appeal has been filed under Section 30602 of the Coastal Act regarding consistency with Chapter 3 policies of the Coastal Act.

IV. FINDINGS AND DECLARATIONS

The Commission hereby finds and declares:

A. Project Description and Area History

The proposed project includes the renovation and expansion of the Getty Villa and Museum facility (an addition of approximately 76,000 square feet to an existing 134,000 square-foot facility, for a new total of 210,000 square feet). Development includes construction of a 600-seat Outdoor Classical Theater and two partially subterranean parking structures for a total of 460 parking spaces. Conditions of approval limit the proposed Outdoor Classical Theater to 450 seats and require a total of 460 on-site parking spaces with parking spaces for up to 8 buses, and include grading and landslide remediation, widening of Pacific Coast Highway to include a turn lane and other transportation improvements along Pacific Coast Highway, Sunset Boulevard and Los Liones Drive.

The project site consists of a 64 acre parcel just off of Pacific Coast Highway in the Pacific Palisades area of the City of Los Angeles. The property is situated within a small canyon. The property is located approximately three miles northwest of the City of Santa Monica and one-half mile east of the City of Malibu.

The surrounding area is residentially developed with Topanga State Park immediately adjacent to the site to the north.

According to the EIR the J. Paul Getty Museum opened to the public in 1953 as a museum housing the art collection of its founder J. Paul Getty. The collection was housed in gallery space located at the east end of the Ranch House, the original residence purchased by J. Paul Getty. In 1957, a gallery wing was constructed adjacent to the Ranch House. In 1974 the collection was moved to the newly completed Roman villa building, which has since served as the Museum.

In 1983 the issued a Coastal Development Permit (#83-017) for the renovation and construction of two new additions to the existing Ranch House and additional staff parking for the Museum.

B. Area Planning History

The City of Los Angeles has a work program to complete a Local Coastal Program in the Pacific Palisades planning area. This work program discusses hillside development standards to reduce grading, the Sunset Boulevard corridor, and landslides above Pacific Coast Highway. There is no draft LCP for this area.

C. DESCRIPTION OF LOCAL APPROVAL

On July 20, 1999, the City's Zoning Administrator approved a coastal development permit, with conditions, for the renovation and expansion of the Getty Villa and Museum facility (an addition of approximately 76,000 square feet to an existing 134,000 square-foot facility, for a new total of 210,000 square feet). Development includes construction of a 600-seat Outdoor Classical Theater and two partially subterranean parking structures for a total of 460 parking spaces. Conditions of approval limit the proposed Outdoor Classical Theater to 450 seats and require a total of 460 on-site parking spaces.

Conditions of the City's permit also include limiting the Museum public hours from 10:00 a.m. to 5:00 p.m. five days per week and 10:00 a.m. to 9:00 p.m. one day per week. The Outdoor Theater is limited to no more than 35 evening performances and 10 performances between 10:00 a.m. and 4:00 p.m. on days when the Museum is not open to the public. Vehicle access for visitors to the Outdoor Theater is restricted to before 5:00 p.m., or no earlier than 7:00 p.m.

The Zoning Administrator's decision was appealed to the Board of Zoning Appeals by the applicant and a protestant. On September 28, 1999, the Board of Zoning Appeals denied the protestant appeal, and granted in part the appeal by the applicant.

With regards to the City's analysis of coastal issues, the City's Coastal Development Permit incorporated by reference the project's EIR (NO. 96-0077). The City's Coastal Development Permit provides an analysis of the project's consistency with applicable Chapter 3 policies of the Coastal Act, including impacts to access, scenic and visual qualities of the coastal area, Environmentally sensitive habitat areas, and hazards. Based on this analysis, the Board of Zoning Appeals found, as part of its CEQA findings, that the project is consistent with all of the applicable policies of Chapter 3 of the Coastal Act. However, as stated above, the proposed project raises substantial issues with respect to the Chapter 3 policies of the Coastal Act.

D. SUBSTANTIAL ISSUE ANALYSIS

Section 30602 of the Coastal Act states:

Prior to certification of its local coastal program, any action taken by a local government on a coastal development permit application may be appealed by the executive director of the commission, any person, including the applicant, or any two members of the commission to the commission..

Coastal Act Section 30625(b)(1) states that the Commission shall hear an appeal filed pursuant to subdivision (a) of Section 30602 (the pre-certification permit option) unless it determines:

(1) ... that no substantial issue exists as to conformity with Chapter 3 (commencing with Section 30200).

The term “substantial issue” is not defined in the Coastal Act or its implementing regulations. The Commission’s regulations indicate simply that the Commission will hear an appeal of a locally issued coastal development permit unless it “finds that the appeal raises no substantial issue in accordance with the requirements of public resources code section 30625(b) and section 13115(a) and (c) of these regulations” (Cal. Code Regs., tit. 14, section 13321.) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government’s decision that the development is consistent or inconsistent with the policies Chapter 3 of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government’s decision; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government’s coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City raises a substantial issue with regard to the appellants’ contentions regarding coastal resources.

1. Appellants’ Contentions That Raise a Substantial Issue

Some of the contentions raised in the appeal present valid grounds for appeal in that they allege the approved project’s inconsistency with policies of the Coastal Act. As stated above, four separate appellants have filed appeals. Listed below are the appellants’ contentions that are valid grounds for appeal because they address Chapter 3 policies of the Coastal Act:

A. Public Access

(a) The appeal by Palisades Preservation Association, Inc contends that:

1. The project is contrary to Section 30211 of the Coastal Act.
2. Vehicle access will use Los Liones Drive in Los Liones State Park for egress of buses and for ingress and egress of employees, visiting scholars, delivery vehicles, and business visitors. The use of this road will be inconsistent with Section 30223 of the Coastal Act.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30223 of the Coastal Act states

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

The approved project site abuts the lower southern portion of the 8,000-acre Topanga State Park. Los Liones Drive serves as the entrance road and parking area for the trailhead into Los Liones Canyon, which is located in the lower portion of Topanga State Park. Los Liones Drive is a local roadway providing one through travel lane in each direction and parking along both curbs.

In 1998, the Commission approved park improvements along Los Liones Drive and Los Liones Canyon (CDP no. 5-97-40). Approved improvements include additional visitor serving amenities, such as an amphitheater, picnic tables, shade structures, interpretive panels, landscaping, and hiking trails within Los Liones Canyon. According to the Department of Parks and Recreation, this entrance serves thousands of park visitors annually. The parking area, due to its relative proximity to Will Rogers State Beach (1/3 mile from the beach), also serves as beach parking.

According to the EIR and City's CDP, public access to the museum and proposed theater will be from Pacific Coast Highway, however, Los Liones Drive, located in the northern portion of the site, will be used by employees, visiting scholars, delivery vehicles, and as an exist for

buses. The EIR indicates that buses leaving the museum could stop and use the park facilities.

In responding to the EIR, the California Department of Parks and Recreation expressed concern that the project and the use of Los Liones Drive would adversely impact visitors to Topanga State Park by taking up the limited parking in the area.

The EIR and the City's present CDP do not address the impact of the approved expansion on the adjacent State Park or on the use of the park's parking lot as parking for beach use. Therefore, the local approval does not ensure that potential adverse impacts to visitor use of the park and to beach access are avoided and/or mitigated consistent with the Chapter 3 Policies of the Coastal Act. Because the park is a coastal recreational area and the parking lot provides parking for beach access, additional traffic and use of Los Liones Drive can adversely impact recreational use of the park and beach access. Therefore, the appellant's contentions raise a substantial issue with respect to Section 30211 and 30223 of the Coastal Act.

B. Traffic/ Parking

(a) Ms. Kohn contends that:

1. The project will result in increased traffic on Pacific Coast Highway and will be inconsistent with Section 30250 of the Coastal Act.
2. The 1983 Coastal Commission [approval] limited parking at this site to 291 spaces with visitor capacity limited to no more than 216.

(b) The Executive Director contends that:

1. The approved project will add additional traffic to Pacific Coast Highway and to nearby Sunset Boulevard, which will adversely impact beach access and access to Topanga State Park.
2. In the City's approval, the City indicates that with an imposed reservation system and shuttle program adequate parking will be provided to meet the current and expanded use. The City's approval indicates that a total of 560 parking spaces will be provided but does not indicate the current parking supply, nor does it include the existing parking demand and the parking demand generated by the expansion. Furthermore, according to the City's approval, the reservation system is part of a 1974 agreement with the Sunset Mesa Property Owners Association. The agreement was not included as part of the City's approval. Without this parking information it can not

be determined what potential parking impacts the proposed project would have on beach access and recreational use.

Section 30250 of the Coastal Act states:

(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.

The 64-acre Getty Villa property is located just off of Pacific Coast Highway in the Pacific Palisades Area of the City of Los Angeles. Public access to the Getty Villa property is from Pacific Coast Highway. Additional vehicular access is provided for employees and some service vehicles via Los Liones Drive, which is located inland of Pacific Coast Highway and west of Sunset Boulevard. Coastline Drive, which serves an adjoining neighborhood, is located immediately to the west of the project site.

Pacific Coast Highway is the major thoroughfare providing north-south access to the various beaches to the south and north of the project site. Sunset Boulevard provides east-west access to the coast for people living in the inland areas and to two lower entrances to Topanga State Park. Topanga State Park, which is a major 8,000-acre recreational area, is located off of and north of Sunset Boulevard via Los Liones Drive, and is within close proximity to the project site.

Additional traffic generated by the proposed development could have an adverse impact to beach access along Pacific Coast Highway and to nearby Topanga State Park. The EIR indicates that the approved project would result in significant P.M. peak hour traffic impacts at three study intersections (Coastline Drive/Pacific Coast Highway; Porto Marino Way/Pacific Coast Highway; and Sunset Boulevard/Pacific Coast Highway). However, the City's CDP states that with the required non-concurrent use of the Outdoor Classical Theater during museum operating hours (i.e., use of the theater permitted during evenings only and outside of visitor hours to the museum), significant P.M. peak hour traffic impacts resulting from implementation of the project would occur only at the intersection of Coastline Drive and Pacific Coast Highway.

The EIR indicates that the peak parking demand by museum visitors, employees, and business visitors would increase by 10% with development of the approved project.

However, as many of the prior exhibits and programs previously accommodated at this site have been relocated to the Getty Center in Brentwood, the EIR states that it is expected that the level of visitation at the Getty Villa would be the same or lower than previous levels, making the 10% increase a conservative estimate.

However, the number of visitors to the existing museum was limited, as a condition of the City's original Coastal Development Permit (CDP #83-017), by the number of on-site public parking spaces (216) and a reservation system. [The Coastal permit cited by Ms. Kohn did in fact limit the parking spaces as noted, but was in fact issued by the City of Los Angeles under its authority granted by section 30600(b).] The limit on the number of parking spaces and the reservation system was part of a 1974 agreement with the Sunset Mesa Property Owners Association. This original reservation system was incorporated into the City's original Coastal Development Permit and has been incorporated, by reference, in this Coastal Development Permit. The approved project will provide 460 visitor-parking spaces, or 244 more spaces than approved in 1983. Although the approved project will continue the reservation system, as required by the City's approved Coastal Development Permit, the limit on the potential number of visitor vehicles will increase to 460 spaces. Neither the City's 1983 coastal development permit nor the City's current Coastal Development Permit provides information or analysis substantiating the basis for the earlier restriction to 216 visitor spaces or for the present expansion to 460 visitor spaces. The actual 1974 agreement was not included as part of the City's submitted documentation to Commission staff. Without analysis of the reasons for the limitations and without this parking agreement, the City-required reservation system and on-site parking limitations cannot be evaluated for consistency with section 30250 of the Coastal Act. Therefore, the potential parking impacts on beach access and recreational use can not be determined.

Furthermore, as a condition of the City's present permit, in an effort to reduce the parking demand by having the theater and museum operate non-concurrently, the Getty Villa will prohibit entrance of vehicles transporting visitors for theater performances to no earlier than 7:00 p.m., unless theater patrons arrive prior to 5:00 p.m.

This condition and the proposed operation has the potential to increase the on-site parking demand and traffic along PCH beyond the EIR's projected figures. First, contrary to the applicant's expectation that parking will remain the same or even decrease, there is a potential that there may be a simultaneous use of the parking facilities by museum patrons and theater patrons, which may result in an actual increase in the parking demand during the day.

Second, one can not assume that all theater patrons will arrive after the 7:00 p.m. theater parking opening. Taking into account driving distances and traffic conditions that are unpredictable, some theater patrons will undoubtedly arrive prior to 7:00 p.m. Therefore, additional traffic will be generated along PCH by theater patrons that arrive after 5:00 p.m. and before 7:00 p.m. These patrons will not be allowed onto the property and will need to

drive and find temporary parking until the 7:00 opening. This will add additional traffic to Pacific Coast Highway and the surrounding streets and could add to the parking demand in the surrounding area, including the adjoining neighborhoods

Finally, one of the conditions of the City's permit requires an off-site shuttle program to transport visitors to evening performances at the proposed Outdoor Classical Theater. The off-site parking locations or times of use have not been specifically identified in the City's Coastal Development Permit. The conditions of the Coastal Development Permit indicate that potential shuttle sites could be located along the corridor extending from Sunset Boulevard to the McClure Tunnel in Santa Monica and may include City owned parking lots or other public parking areas. Without information as to the specific lots and the times that such lots will be used, the impacts to beach access can not be determined. Therefore, there is a potential that use of off-site parking areas within the coastal zone may adversely impact beach and recreational parking if the potential sites are used by beach or recreational users or the museum/theater usurps support parking for other visitor serving uses. Therefore, the appellant's contentions do raise a substantial issue with respect to Section 30250 of the Coastal Act.

C. Environmentally Sensitive Habitat

(a) Pacific Palisades Residents Association, Inc. and Ms. Kohn contend that:

The project conflicts with Section 30240(a), which requires that environmentally sensitive habitat be protected from significant disruption.

Section 30240(a) states:

(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.

According to the EIR utilized by the City in approving the CDP, historical use of the property as a residence and for cultivation of citrus orchards, followed by museum related development, has eliminated nearly all natural vegetation from the southern and central canyon in which the project site is located. Although small numbers of coast live oak trees, western sycamores and native shrub species persist, the lower canyon is currently dominated by non-native plant species.

The southern periphery of the property and slopes lining the lower canyon currently support large numbers of myoporum, eucalyptus and pine trees. Eucalyptus also line the entrance driveway.

According to the approved project's EIR, the Monarch butterfly has previously been observed on the site. Monarch butterflies were observed roosting on the property between 1984 and 1993. According to the EIR, roosts are generally located in tree groves, including exotic trees such as eucalyptus, pine and cypress. The EIR and the City's Coastal Development Permit indicate that the Monarch butterfly is listed by the State as a California Species of Special Concern.

According to the California Department of Fish and Game's Natural Diversity Data Base report, over 1,000 butterflies were observed roosting in a grove of eucalyptus trees south of the public parking lot. In 1989-90, up to 15,000 monarchs returned to the property and roosted in pine trees in the same location. The most recent reported sighting was 500 monarchs in 1992-93. The EIR states that although the groves of eucalyptus and pine trees are still present, no butterflies were observed during field surveys.

The City's coastal development permit states that development will be located within the southern portion of the site. According to the EIR, the southern portion of the site is the location of the Monarch's roosting area. Although the EIR states that monarchs have not been observed during recent field surveys, the report does not state the time of year the surveys were conducted or whether Monarchs were observed in other areas off-site. Therefore, it can not be determined, at this time, if there was an overall decline in the Monarch population during the period of the recent survey, or if there were other factors contributing to Monarchs not roosting on the property or surrounding area.

To address the potential impacts to the Monarch, as a condition of the CDP permit, the City requires that:

Eucalyptus trees on –site shall be maintained, trimmed, and (if necessary) removed at such seasons as will not be detrimental to the migration, resting or reproduction of the Monarch Butterfly, except in the case of emergencies or as necessary for public safety.

The EIR and City's CDP, does not specify the seasons, or potentially critical months to be avoided, to ensure that the Monarch Butterfly will not be adversely impacted. Furthermore, the condition allows the removal of Eucalyptus trees, which may eliminate or adversely impact groves as roosting sites. Because Monarchs roost in groves, the trimming or removal of Eucalyptus trees, as allowed by the condition of the permit, could irreparably damage the grove and eliminate the roosting site. Moreover, the EIR indicates that pine trees on the property were also used as roosting sites, but the City's CDP does not provide any protection or mitigation measures for these trees to minimize damage to the canopy which could have impact on the butterflies. Therefore, the applicant's contention does raise a substantial issue with respect to Chapter 3 polices of the Coastal Act.

D. Hazards and Landform Alteration

(a) Pacific Palisades Residents Association, Inc. and Ms. Kohn contend that:

The project violates Section 30253 by increasing risk to life and property in an area of high geologic, flood and fire hazard.

(b) Pacific Palisades Residents Association contends that:

The project conflicts with the Interpretive Guidelines for the area as adopted by the Coastal Commission. The project alters natural landforms along bluffs, which should be prohibited under the Guidelines.

The Commission notes that the interpretive guidelines are not a standard for appeal, but also notes that Section 30251 and 30253 require applicants to minimize the alteration of natural landforms and require that development minimize risks to life and safety.

Section 30251 states in part:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Section 30253 states:

New development shall:

(1) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

(3) Be consistent with requirements imposed by an air pollution control district or the State Air Resources Control Board as to each particular development.

(4) Minimize energy consumption and vehicle miles traveled.

(5) Where appropriate, protect special communities and neighborhoods which, because of their unique characteristics, are popular visitor destination points for recreational uses.

The City's CDP indicates that the Final EIR indicates that implementation of the project would increase the demand for fire protection and Emergency Medical Service and result in significant impacts on fire protection service. The City approval also states that mitigation measures in the EIR and in the Mitigation Monitoring and Reporting Program have been incorporated into the project which will avoid or substantially reduce project impacts to a less than significant level.

According to the EIR, flood and fire hazards will be minimized, as drainage facilities within the site will be adequate to accommodate peak storm flows. Furthermore, emergency access throughout the site will be improved and recommendations of the Fire Department, relative to fire safety, will be incorporated into the building plans.

However, In terms of geologic stability, the EIR indicates that landslides are common in the coastal region surrounding the project site and that three known landslides are located on-site. One of these slides, known as the East Side Slide, occurred on the east side slopes below Castellammare Mesa, to the northeast of the Museum, in March 1995. According to the EIR this landslide represented a partial reactivation of a prehistoric landslide. A possible second, probably prehistoric, landslide is also located on the east side slopes, and a third is located near the entrance to the Getty Villa.

The EIR indicates that remediation of the East Side Slide is proposed. However, the EIR further states that the potential for other landslides exists, primarily along the eastern slopes. The City's Coastal Development Permit does not address the potential impacts of these slides on the approved project or mitigation measures with regards to Sections 30251 and 30253 of the Coastal Act.

Furthermore, the City's approved Coastal Development Permit does not specify the amount or location of grading and remediation that is required. As approved by the City, the grading and remediation is subject to additional on-site evaluation and the City's review. The City's Coastal Development Permit does not indicate that the City's Department of Building and Safety has reviewed the project and determined the project to be safe from geologic hazards. At this time it can not be determined what impact the approved landform alteration will have on the area.

Furthermore, without prior review by the Department of Building and Safety there is the potential that the approved project, once it is reviewed by the Department of Building and Safety, will be significantly modified to address geologic concerns. Such modifications could result in a significantly different project and include additional grading and landform alteration,

which may require the City to issue a new Coastal Development Permit. Therefore, the applicant's contention does raise a substantial issue with Sections 30251 and 30253 of the Coastal Act.

Conclusion

The Commission finds that substantial issues exist with respect to the approved project's conformance with the Chapter 3 policies of the Coastal Act. Therefore, appeal No. A-5-PPL-00-028 raises substantial issue with respect to the grounds on which the appeals have been filed.

2. Issues Raised by Appellants that do not Address the Approved Project's Inconsistency with the Chapter 3 Polices of the Coastal Act

The contentions listed below do not address valid grounds for appeal with respect to Chapter 3 polices of the Coastal Act or raise substantial issues of conformity with respect to the Chapter 3 Policies of the coastal act..

(a) Pacific Palisades Residents Association and Ms. Kohn contend that:

Approval of a project of this magnitude will prejudice the ability of the City of Los Angeles to prepare a local Coastal Program in conformity with Chapter 3 of the Coastal Act.

This contention addresses the Commission's review of Local Coastal Programs and does not identify how the approved project is inconsistent with the Chapter 3 policies of the Coastal Act. Therefore, the appellant's contention does not raise a valid ground for appeal with respect with the Chapter 3 policies of the Coastal Act.

(b) Pacific Palisades Residents Association contends that:

In approving the project, the City of Los Angeles has failed to be guided by prior relevant decisions of the Coastal Commission.

While in administering the pre-certification permit option, the City is directed by the regulations to consider the Commission's past actions, the grounds for appeal remain the chapter 3 policies of the Coastal act. The City, in approving CDP's is guided by the policies of the Coastal Act. This contention does not identify how the approved project is inconsistent with the Chapter 3 policies of the Coastal Act. Therefore, the appellant's contention does not raise a valid ground for appeal with respect with the Chapter 3 policies of the Coastal Act

(c) Pacific Palisades Residents Association contends that:

The project conflicts with the Interpretive Guidelines for the area as adopted by the Coastal Commission. The project alters natural landforms along bluffs, which should be prohibited under the Guidelines.

As noted above the Coastal Act does include provisions to limit the alteration of natural landforms. However, failure to conform to the interpretive guidelines in itself is not a valid basis for appeal.

(d) Palisades Preservation Association, Inc. contend that:

Section 30604(c) states:

Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 (commencing with Section 30200).

The project is not located between the nearest public road and the sea or shoreline. Pacific Coast Highway is the first public road nearest and paralleling the sea. The project is located on the north side of Pacific Coast Highway. Therefore, the appellant's contention raises no substantial issues with respect to Chapter 3 policies of the Coastal Act.